

REMARKS

Rejections to claims 11-14 under U.S. Code 112, second paragraph, are withdrawn, in view of the amendment.

Rejections to claims 1-2, 5-17, 19, 21-23 and 37-27 rejected under 35 U.S.C. 102(b) as being anticipated by Albrecht are withdrawn, in view of the amendment.

Rejections to claims 1-19, 21-23 and 25-28 rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of MacLean are withdrawn, in view of the amendment.

Claims 20 and 39 rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of Tanaka are withdrawn, in view of the amendment.

Claim 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of Knisely is withdrawn, in view of the amendment.

Examiner states that Applicant's argument's with respect to claims 1-4 and 6-39 have been considered, but are moot in view of the new grounds(s) of rejection.

Applicant argues that the Examiner's final rejection is premature. Examiner has withdrawn and reissued rejections in this action, citing the same reference (Albrecht (US 4,875,242)) on claims that have not changed. In the first office action amendment, claims 2-4, 8, 9, 15-20, 24, 26-28 and 33 are original. Examiner in current action has withdrawn his rejections, and then cited same reference for rejecting claims 2, 8, 9, 15, 16, 17, 19, 26, and 27. Withdrawing the rejections on non-amended claims is tantamount to admitting that these original claims are allowable, as there is no new basis for the rejection. Additionally, Applicant argues that the Examiner's final rejection is premature on the grounds of MPEP 706.07(e), which states:

Although it is permissible to withdraw a final rejection for the purpose of entering a new ground of rejection, this practice is to be limited to situations where a new reference either fully meets at least one claim or meets it except for differences which are shown to be completely obvious. Normally, the previous rejection should be withdrawn with respect to the claim or claims involved.

The Examiner cites new reference, McKenzie (US 5,144,698) in his final rejection of claims 6, 10, 12-14 and 30-33, for the purpose that the Examiner is of the opinion that the reference “either fully meets at least one claim or meets it except for differences which are shown to be completely obvious.” Under the rules of examination, the previous rejection should be (and is) withdrawn. If the previous rejection is withdrawn, then the current rejection should be non-final, and a final rejection is premature.

Lastly, the Examiner has cited 706.07(a) as a basis for the final rejection. MPEP 706.07(a) states, “Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by Applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). The Examiner introduced new grounds of rejections, citing a new reference McKenzie (US 5,144,698). The Examiner rejections were cited in 8 claims (6, 10, 12-14, and 30-33), of which at least one was an original claim, and therefore was not necessitated by the Applicant's amendment. The final rejection is premature.

Claims 1-2, 7-9, 11,15-17,19, 21-23, 25-27, 34-36 and 38 stand rejected under 35 U.S.C. 102(b) as being anticipated by Albrecht (US 4,875,242). “Albrecht relates to a disposable sanitary seat cover (10) comprising an annulus (12) having a polygonal perimeter and an ovalled inner edge (18) as shown in figure-2. The annulus is of a multiply embossed laminated paper sheet having a top layer (24) of tissue paper and a bottom layer (26) of a machine glazed paper, and an adhesive fastening means (57) for temporarily securing the cover to the toilet, wherein the adhesive means is attached to the bottom layer. The annulus has a polygonal perimeter, such as a rectangle (figure-2). Figure-2 shows, by the cross-hatch lines, that the embossing pattern is rectangularly checkered. The adhesive

fastening means (57) comprises a pressure sensitive adhesive (PSA) covered with a release liner (62). The adhesive Tape (58) is a double-sided adhesive tape with a carrier sandwiched between the two adhesive layers because the two adhesive sides have different adhesive strength (col. 5, lines 6-12). Further, figure-2 also shows that the adhesive fastening means are two or more islets or strips (58 and 60). The absorbent layer is embossed which is understood to include printing and can comprise a two-ply layer (col. 3, lines 62-64 and figure-6). For claim 22, the length is approximately that of the toilet seat and the width is slightly wider (abstract). Figures 3-5 displays that the cover sheet is folded to fit into a bag and a finger lift to facilitate removal of a single cover from the bag. The embossing is understood and interpreted by the examiner to include quilting.”

Applicant's claim 1 (currently amended) reads on:

1. A disposable sanitary toilet seat cover comprising:

an annulus having a polygonal perimeter and an ovalled inner edge consisting of a quilted multilayer sheet having a water impervious layer and an absorbent layer;

a wipe consisting of a water impervious layer and an absorbent layer that is a fully detachable section that provides an opening to the toilet;

an adhesive fastening means for temporarily securing the disposable cover to a toilet seat;

wherein said wipe perforatedly attaches to the ovalled inner edge of the annulus; and wherein the adhesive fastening means is attached to the water impervious layer.

Albrecht does not teach an annulus having an ovalled inner edge. The center section is semicircular. In the Albrecht invention the Examiner has incorrectly identified element 54 as a detachable inner oval section. In column 4, line 50-56, Albrecht describes his flap as a protectant flap (54) securely attached to the forward end of the opening (18), with the cut

line (19) being interrupted sufficiently to tack the protective flap (54) in place until detached from the cut-line by the user, thus expanding the opening (18) and permitting the flap (54) to hang down into the bowl (56) of the toilet. It is apparent, that in contrast to the Albrecht disposable sanitary toilet seat cover; the annulus has no flap that hangs down into the toilet. This is in contrast to the Applicant's toilet seat cover, which is an annulus with an ovalled inner edge. No portion of the Applicant's toilet seat cover can hang down into the toilet at any time. Furthermore, Albrecht does not teach "a wipe consisting of a water impervious layer and an absorbent layer that is a fully detachable section that provides an opening to the toilet." A discussion of the wipe follows in later Remarks. Claim 1 and claim 25 have been amended to read, "consisting of a quilted multilayer sheet having a water impervious layer and an absorbent layer." The phrasing, "consisting of", eliminates an annulus having a flap as taught by Albrecht. An additional differentiating element is the glazed paper taught by Albrecht. Glazed paper is not impervious to water. Furthermore, Albrecht teaches in col. 1, lines 63-64, that the paper top layer is a creped paper. Applicant is not claiming a creped paper, but a quilted multilayer sheet having a water impervious layer and an absorbent layer. Creped sheets are longitudinally gathered, and can be stiff in the cross direction, because, like corrugated cardboard, the creping creates horizontal ridges. A quilted sheet is waffled, and is not stiff in any direction. To meet the criteria for a 102 rejection, each of the elements must be present. They are not present. Claim 25 includes all the elements of claim 1. Claim 1 and claim 25, and their dependent claims should be allowed.

Claim 2 reads on a coating layer or a filmic layer, and is not addressed by the Examiner.

Claim 17 reads on a printed absorbent sheet, and is not addressed by the Examiner.

Claim 19 reads on plies of porous tissue paper or nonwoven material. Albrecht teaches a heavier multilayer composite paper sheet (col. 1, line 62 –63). Claim 19 is not addressed by the Examiner.

Claim 23 reads on a folded toilet seat cover having a finger lift, placed in a bag, and this claim is not addressed by the Examiner.

Claim 36 reads on a printed absorbent sheet, and is not addressed by the Examiner.

Claim 38 reads on plies of porous tissue paper or nonwoven material. Albrecht teaches a heavier multilayer composite paper sheet (col. 1, line 62 –63). Claim 38 is not addressed by the Examiner.

Claims 1-4, 7-9, 11, 15-19, 21-23, 25-29 and 34-38 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of MacLean (US 4,887,321). “Albrecht, as discussed above, fails to teach that the impervious bottom layer is polyethylene. MacLean discloses a toilet seat cover (10) comprising a paper sheet (11) coated with synthetic plastic material such as polyethylene (col. 7, lines 1-3). Therefore, it would have been obvious to one having ordinary skill in the art to utilize MacLean’s teaching of using a bottom layer of polyethylene in the invention of Albrecht with the motivation to provide a protection barrier.”

Applicant claims a water impervious layer. There are a number of materials that could provide this, including polyethylene. Combining MacLean and Albrecht does not teach a wipe, nor a quilted layer or an annulus. MacLean and Albrecht do teach that there is a portion, a flap that is pushed down into the toilet. This center portion is at cross-purposes with the function of Applicant’s invention, which is to provide a sanitary cover with a wipe. The MacLean and Albrecht center portion is in the toilet bowl, and would not be suitable as a wipe. Furthermore, the quilting enables the Applicant’s cover to drape, whereas the fluted folds of MacLean would reinforce Albrecht’s heavier multilayer composite paper sheet (col. 1, lines 62-63) laminated to glazed paper and now to polyethylene.

Claim 2 reads on a coating layer or a filmic layer, and is not addressed by the Examiner, and is not taught by either MacLean or Albrecht.

Claim 17 reads on a printed absorbent sheet, and is not addressed by the Examiner, and is not taught by either MacLean or Albrecht.

Claim 19 reads on plies of porous tissue paper or nonwoven material. Albrecht teaches a heavier multilayer composite paper sheet (col. 1, lines 62-63). Claim 19 is not addressed by the Examiner, and is not taught by either MacLean or Albrecht.

Claim 23 reads on a folded toilet seat cover having a finger lift, placed in a bag, and this is not addressed by the Examiner, and is not taught by either MacLean or Albrecht.

Claim 36 reads on a printed absorbent sheet, and is not addressed by the Examiner.

Claim 38 reads on plies of porous tissue paper or nonwoven material. Albrecht teaches a heavier multilayer composite paper sheet (col. 1, line 62-63). Claim 38 is not addressed by the Examiner, and is not taught by either MacLean or Albrecht.

The Examiner states that for claims 18 and 37, the presence of odorous or fragranced seat cover is well known and conventional in the art as evidenced by Canadian patent 315,162 cited in MacLean, col. 3, line 49, and that fragrance or odorous are deemed to be synonymous in the art as both are directed to suppressing unpleasant smell.

Applicant teaches in claims 18 and 37 that the absorbent layer is fragranced. The Canadian patent referenced by the Examiner teaches that the seat protectors can include a plurality of odorous sanitized packets, col. 3, line 50. Bathrooms commonly have fragranced devices, but they do not make the toilet paper smell better. The fragrance has to be in the seat cover and the wipe to be fully effective.

Claims 6, 10, 12-14, and 30-33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over McKenzie (US 5,144,698) in view of Albrecht. “McKenzie relates to a toilet seat cover (10) comprising an annulus having a polygonal perimeter and an ovalled inner edge as shown in figure-6. The cover comprises a multilayer sheet having a water impervious layer (14), an absorbent layer (12) and a wipe (22) that is fully detachable along the perforation line from the inner edge of the cover to provide an opening to the toilet. Further, as shown in figure-5, the wipe has an apex that can be readily lifted to initiate and propagate the detachment. The wipe is also of multilayer. However, McKenzie fails to teach that the presence of adhesive fastening means attached to the impervious layer. Albrecht, as discussed above, teaches the advantage of providing the adhesive fastening means attached to the impervious layer of the cover for securing the cover to the seat. Therefore, it would have been obvious to one having ordinary skill in the art to utilize Albrecht's teaching of using adhesive fastening means in the invention of McKenzie with the motivation to secure the cover to the toilet seat.”

Applicant's dependent claims 6 and 12 are rolled into independent claim 1, and claims 6 and 12 are canceled. Dependent claim 30 is rolled into independent claim 25, and claim 30 is canceled. The Examiner has erroneously asserted that substantially any central section is equivalent to a wipe. Albrecht teaches a partially detachable flap 54 that is used to secure the seat cover to the toilet, however, it is nonsensical to assert that a flap that comes in contact with the toilet is suitable as a wipe. Likewise, McKenzie's removable central portion is used to secure the seat cover to the toilet, and it is not suitable as a wipe. McKenzie teaches in his Abstract that there is a "removable central portion, which is one or a pair of mitts, for example, to receive and enclose the hand or hands of the user to protect the user from touching any unsanitized surface with a bare hand, while opening and closing the toilet enclosure, installing and disposing of the toilet seat cover, or flushing the toilet." Furthermore, there are different elements in McKenzie's central portion and Applicant's wipe. Applicant's wipe, consisting of an absorbent layer and a water impervious layer, is suitable for cleaning oneself, not installing the seat cover. McKenzie's central portion is a mitt that can be composed of any suitable material either paper or plastic (col. 3, lines 16-17). McKenzie's mitt, as shown in Fig. 3 and Fig. 4, is comprised of two sheets, 12 and 14, where each sheet is a paper plastic laminate, col. 4, lines 18-19. Paper and polyethylene are taught, but absorbency is not taught. A wipe needs to be absorbent and not rough on the skin. A mitt for installing a toilet seat cover does not need to be absorbent. Applicant teaches in claim 13 that the wipe is quilted and embossed. Applicant's claim 14 claims a "rectangularly checkered embossing pattern to provide improved conformability and absorbency." McKenzie is silent on these features. The differences in the elements are a reflection of their intended functionality. McKenzie uses the mitt to slide the cover on the toilet seat while protecting one's hands. After using the mitt to install the cover, it would not be suitable as a wipe, in part because it has come into contact with the toilet. The invention is designed to prevent the user from coming into contact with the toilet. Furthermore, McKenzie teaches a toilet seat cover that has two partially sealed sheets. Applicant's and Albrecht's toilet seat covers have only one sheet (see figures). McKenzie teaches away from a toilet seat cover that can be fastened to the top of the cover with an adhesive means, as claimed in Applicant's claim 25. The 35 U.S.C. 103(a) rejection is overcome, as McKenzie teaches away from a wipe, McKenzie

has a different construction, and McKenzie teaches away from a toilet seat that is secured by an adhesive fastening means.

Claims 20 and 39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of MacLean and Tanaka (US 6,663,949). “Albrecht and MacLean, as discussed above, fails to teach that the absorbent layer contains water swellable polymeric particles. Tanaka discloses an absorbent sheet comprising water swellable polymeric particle embedded therein (abstract and col. 3, lines 5 and 14). The [absorbent sheet] also contains deodorizer. The sheet can be used as toilet sheet. Therefore, it would have been obvious to one having ordinary skill in the art to utilize Tanaka's teaching of using water swellable polymeric particles in the absorbent layer of the toilet seat liner in the invention of Albrecht with the motivation to provide for dry seat for hygienic purpose.”

As regards to claim 20 and 39, Examiner admits that Albrecht and MacLean fail to teach that the absorbent layer contains a water swellable polymeric particles. Additionally, Applicant points out that not only do Albrecht and MacLean fail to teach an absorbent layer that contains a water swellable polymeric particles, but they actually teach away from an absorbent layer. MacLean, in col. 5, line 10, defines an aim of the invention is to provide a seat cover that “is water-retardant and water-repellent.” It is an improper combination of references to cite Tanaka (US 6,663,949), given that Albrecht and MacLean teach away from even an absorbent layer. Additionally, the Tanaka patent, in col. 3, line 5, teaches a polymer that swells and gets tacky. Applicant does not teach, nor desire a tacky toilet seat cover. Applicant does not claim the use of a deodorizer. Claims 20 and 39 are dependent claims and, in addition to the arguments set forth, they have the limitation of the parent claim (currently amended) and any intervening claims, and therefore they should be allowed.

As regards a deodorizer, a deodorizer is a substance that masks or neutralizes odors. A fragrance, as claimed in claim 18 and 37, is a substance, such as a perfume or cologne, designed to emit a pleasant odor. Tanaka's patent reads on applications such as sanitary napkins where a deodorizer would be appropriate. Applicant's invention is not

intended to deodorize a bathroom or a toilet, but to merely emit a pleasant odor. Claims 18 and 37 should be allowed in light of the arguments and the amendment.

Claim 24 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of Knisely (US 1,835,787). Albrecht, as discussed above, fails to teach that the absorbent layer contains an antiseptic. Knisely discloses a sanitary closet seat cover (3) made of crepe tissue paper, which is absorbent and is treated with antiseptic (page 1, lines 72-79). Therefore, it would have been obvious to one having ordinary skill in the art to utilize Knisely's teaching of using tissue absorbent paper with antiseptic treatment in the invention of Albrecht with the motivation to provide protection from germs.

Applicant notes that Knisely, similar to Albrecht, teaches a toilet seat cover where the central portion remains attached and folds down into the toilet seat bowl, and the centerpiece is identified as flap 5, and upon flushing is automatically pulled down with the contents of the bowl, column 2, lines 80-83. The antiseptic that is present in the centerpiece could not serve usefully as an antiseptic in a wipe since the center portion of Knisely's invention is in the bowl of the toilet. Additionally, Knisely teaches away from a water-impervious layer. In line 74, Knisely teaches that moisture causes the toilet seat cover to remain in place. Applicant's invention eliminates contact with moisture and provides a sanitary wipe. Albrecht teaches a laminate having a glazed paper ply, which goes against the seat and this ply is only mildly sensitive to water. Furthermore, in his rejections, the Examiner has expressed the opinion that it is obvious to combine Albrecht with MacLean, who teaches the use of a polyethylene layer. The Examiner is contradicting himself when he states that it is obvious on one hand to combine Knisely who discloses a sanitary closet seat cover (3) made of crepe tissue paper which is absorbent and is treated with antiseptic, and on the other hand, in an earlier rejection, to combine Albrecht with MacLean who teaches away from an absorbent layer. Both scenarios cannot be obvious. The Applicant asserts that claim 24 is allowable, because, in Knisely, it is not relevant whether there is an antiseptic, because the absorbent toilet seat has an absorbent layer hanging in the toilet bowl, and the antiseptic would be largely ineffective.

In summary, the amended claims clearly distinguish the instant invention from the 102 and the 103 cited prior art, and it is believed that the amended claims, in view of the arguments set forth, should be allowed as they overcome each of the Examiner's rejections.

There are no new claims, and therefore no additional fees. There is no new subject matter, and all amendments are fully supported by the specification. The application is now believed to be in condition for allowance.

Respectfully submitted,



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